

OPIMUM IN A NUTSHELL

Question of An Original Container.

LAW OF SEARCH WARRANTS

Interesting Legal Points Elucidated by Judge Humphreys in Ah Chong Case.

(From Thursday's Daily.)

What is an original container for opium or for any other importation upon which duties must be paid? The question came up in the Circuit Court before Judge Humphreys yesterday during the progress of the prosecution of Ah Chong, charged with selling opium. It was a jury trial upon which the following jurors sat:

Chas. N. Rose, Eugene P. Sullivan, E. S. Cunha, Wm. M. Graham, George E. Smith, R. W. Dexter, F. H. Armstrong, P. W. McKinney, E. O. Scott, White, John H. Schnack, Jacob Land, and Geo. S. Wells. Assistant Attorney General Robbins for prosecution, Robertson & Wilder and J. T. De Bolt for defendant.

The evidence of Deputy Sheriff Chillingworth for the prosecution was to the effect that he had made a raid upon the house of Ah Chong on Liliha street several months since, but without the formality of a search warrant. He had brought away from the house several articles to be used as evidence against the defendant, including the opium preparation, pipes and other paraphernalia incidental to an opium smoker's outfit.

Officer Hanrahan who was to have been placed on the stand to show that he had seen the defendant in the house at the time of the raid, was denied the privilege. Judge Humphreys in ruling upon the evidence called attention to United States statutes, 116, page 629. Under the authority cited Judge Humphreys stated in effect that articles obtained in a room, such as was intended to be produced by the prosecution, were not admissible as they were not taken under the authority granted by a search warrant.

"We have a law which provides how search warrants may be issued to police officers," said Judge Humphreys, "and they are the last officers or the last persons who should go around breaking into people's houses without search warrants. Nobody's rights of liberty are safe if that may be done."

The authority upon which the Judge based his ruling is found in the syllabus, as follows:

Search and seizure of a man's private papers to be used in evidence for the purpose of convicting him of a crime, recovering a penalty, or of forfeiting his property, is totally different from the search and seizure of stolen goods, defensible articles on which the duties have not been paid, and the like, which rightfully belong to the custody of the law.

The seizure or compulsory production of a man's private papers to be used in evidence against himself is equivalent to compelling him to be a witness against himself, and in the prosecution of a crime, penalty of forfeiture, is equally within the prohibition of the fifth amendment.

The question of the right to sell imported opium in the original packages was brought out at the close of the trial before the arguments were presented. The opium which caused the trouble of Ah Chong was a small quantity which had been placed in the empty shell of a lichee nut. Judge Humphreys stated that under certain circumstances the lichee nut might be called an original container as he knew of instances where opium had been brought into Hawaii in shoes, in vegetables, in kerosene oil cans, etc. Attorney General Dole in reply thought it inconceivable that a lichee nutshell was the original container for opium, and it was beyond the bounds of common sense that a single lichee nutshell was the original container. The sale of liquor as the sale of opium was within police power if not contained in the original package. There was the same right to prohibit the sale of liquor and the sale of opium or anything else of like character which a State would have unless Congress, which is omnipotent, forbids it. Judge Humphreys interrupted by stating that a State cannot prohibit the sale of an article which Congress has allowed.

Mr. Dole continued with the remark that in certain states the sale of intoxicating liquors is absolutely prohibited except in the original packages. He considered the case one in which the burden rested upon the defendant to prove that the opium involved in the present case was contained in the original package of importation.

LILUOKALANI ANSWERS WILLSON.

Lilukalani Dominis has filed a demurrer to the bill of indictment brought against her by Charles H. Willson, in which the latter seeks to prevent the plaintiff from ejecting him from certain premises on Young and Pihik streets. She sets forth that the said plaintiff has not in and by his said bill made or stated such a cause as does or ought to entitle him to any such relief as is thereby sought and prayed for from or against this defendant. That neither the commissioner's deed nor the declaration of trust in said bill nor any copy or copies thereof, are attached to or made part of said bill. That neither the premises or persons named in said bill and of which the plaintiff by said bill seeks to prevent the benefit, nor any remainder, or any other thereof was ever conveyed to, or assigned by defendant or any person authorized thereunto within the meaning of the statute for the prevention of fraud and perjury.

several alleged premises of the defendant relies as a ground of the relief prayed.

Lilukalani asks that the bill against her may be dismissed.

GUARDIAN FOR ESTATE.

J. M. Penahela, representing himself to be the father of William Maunaloa and Annie Waiwai, who are aged respectively five and seven years, has petitioned to Judge Humphreys to be appointed their guardian. By his attorneys, Kinney, Ballou & McClannahan, he makes the above representation, and further, that he is the grandfather of the following minors: Emilia, aged ten years; Kihelu, aged five years, and Kewiku, aged four years. The mother of the last minors being dead and their father, Paul Keala, consenting to the petition. The minors have property and estate in their own right within the jurisdiction of the court, consisting of that certain piece of parcel of land situated at Kawaloa, Hana, Maui, in Royal Patent 3.65 containing 25.4 acres; land described in Royal Patent 4231 to Kaula, situated at Kawaloa, Maui, containing an area of 1.63 acres; land described in grant number 1513 to Auhua and Kekoku, situated at Papahawana, an area of 65 acres.

JUDGMENT FOR RAWLINS.

Judge Humphreys having heard the parties in the ejectment suit of T. W. Rawlins vs. Maraea K. Harbottle and William Harbottle, yesterday filed judgment in favor of the plaintiff. By the terms of the judgment plaintiff is entitled to recover of the defendants the land involved in the suit and the cost of the action. The property is described in Royal Patent 109, L. C. A. 218.

AMENDED MASTER'S REPORT.

An amended report of master and referee on the accounts of administrator de bonis non has been filed by Frank E. Thompson in the matter of the estate of Joseph Gomes, deceased. The master states that at the hearing on the matter on August 14, J. A. Magoon for the administrator, stated the accounts had been passed upon by a master. Mr. Magoon later informed him that he was in error. In order to avoid the delay incident to a new reference he has examined the accounts, checked over the vouchers and commissions, and found them correct, rendering a balance still undistributed, of \$2,605.65.

PLANTATION SUIT DECREE.

In the equity suit of the Waiwala Sugar Co., Ltd. vs. the Waiwala plantation, Judge Humphreys has filed in the Circuit Court a decree sustaining defendant's plea in abatement and ordered all proceedings estopped until the title to the Hot lands involved shall have been settled. The lands in question were made the subject of a suit on the part of the plaintiff. They claimed they had a lease on the property and that it was in possession of the Waiwala Plantation Company. A suit was also instituted against the Hot lands by the defendants to perfect their right to a lease of the property which they aver had been incorporated into the Waiwala Plantation estate. After hearing arguments of counsel for plaintiff and for defendant, the court says:

"It is ordered, adjudged and decreed that the defendant's plea in abatement be allowed; and that all further proceedings in said cause be suspended until the plaintiff's title is settled by action at law or other appropriate proceedings."

PODEYN HEIRS' ESTATE.

J. F. Humburg, guardian of the persons and estate of August Podyen, Frederick Podyen and Waldemar Podyen, minors, has petitioned to the Circuit Court for allowance of final account and discharge. He was appointed as such on May 3, 1899, in place of C. Podyen, who resigned. He avers he has collected all sums by him known or believed to be due and collectible, and has done all a faithful and prudent guardian ought to do. He represents the estate is indebted to him in the sum of \$154.75, but he waives all claim against the estate for this amount, and for commissions as guardian. The estate consisted of one lot on Pihik street, which with the dwelling house thereon, was sold on October 12, 1899. There is now no estate, real, personal or mixed, belonging to said minors in possession of said guardian. He asks that his bond be ordered cancelled, and his sureties thereto released from further obligation.

ESTATE OF WALTER MURRAY GIBSON.

Judge Humphreys filed a decree yesterday in the matter of the estate of Walter Murray Gibson, deceased, in which he ordered the discharge of Cecil Brown, trustee, at the latter's request. Under the provisions of the will of the late Minister of Foreign Affairs during the reign of Kalakaua, and with the consent in writing of Talala L. Haysden, devisee thereunder, Cecil Brown executed a deed of conveyance to William H. Palm and Paul Neumann, co-trustees, two-thirds interest, in and to the real and personal property of the estate of the Island of Lanai. The deed is ordered duly stamped and delivered to the grantees therein named.

Subject to the payment of the stamp duties on the deed the accounts of Cecil Brown are approved, and he is discharged of his trust and his sureties discharged from their obligations. Mr. Kunst, of Hawaii and Samoa, has purchased the Gibson or Haysden holdings on the Island of Lanai. The details are being closed. \$20,000 will be paid to the Haysdens after all debts are paid.

MORE ARE NATURALIZED.

In Judge Este's court yesterday the following persons were admitted to citizenship: Jose Andrade, Portuguese; G. H. Schuler, German; H. A. Zorba, German; John A. Lottas, Austria; Capt. William J. Weir, Ireland.

BANK EMPIRE CASE AGAIN.

The case of Christian Collins et al. vs. Bank Empire was on Judge Este's court yesterday morning. Davis & Clear, proctors for the defendant, read an order to show cause why the bondsman who gave orders for the release of the vessel should not pay the amount of the decree. Kinney, Ballou & McClannahan attorneys for the plaintiff, had already filed a notice of appeal to the United States Circuit Court of Appeals, together with a bond covering the costs. It was argued by them that if the Judge allowed this motion of Davis & Clear the appellate court would not consider the case at all because it would have been a case where the plaintiff had already sued for their pay. He argued that the Judge should not allow an execution to go out against the bondsman. Judge Este took the case under advisement, and will render a decision at 1 p. m. tomorrow.

ELHI ASSAULT CASE ON.

Shortly before 4 o'clock yesterday afternoon the case of Ichi Kuguchi and Ichi Watanabe, brothers, charged with Ichi Watanabe a deadly weapon, to wit, a knife, was brought before Judge Humphreys. The row in which the weapon is alleged to have been used was at

Twice some time ago, in which a Japanese who came to their house was badly injured. At the time of the assault the defendants put in a plea of self-defense.

Miss Calla J. Harrison acted as Japanese interpreter for the case, the regular interpreter being absent on Kauai. Miss Harrison has been a resident of Japan for many years and speaks the language fluently. Her interpretations were satisfactory to all concerned yesterday, and it was stated that the lady was prompt and incisive in her questioning of the witnesses and rendering the replies into English, to an extent rarely heard in the local courts. The case will be heard again this morning.

MAUI LAND LEASED.

Enos and Other Graziers Rent Big Acreage From Government.

For a yearly rental of \$3,010, A. Enos and associates have secured the lease of 25,000 acres of government land on Maui, on the southern side of Haleakala, for a period of five years. The entire tract is fine grazing land and for that reason the large rental to be paid is considered a good investment. The company now owns over 3,000 head of cattle. Enos has held the land practically under lease for fifteen or more years and knows what kind of a bargain he has entered into. The Government reserves the right to take up whatever land it needs at any time during the period of the lease. The entire tract is located in the district of Kahikuni.

HE SHOUTED FOR HELP.

It was not for pleasure that Mr. Wilson, concluded to take a walk in his garden; it was rather an experiment than an act of recreation. And, grievously to relate, the result was against him. The fact is, he had hardly covered a hundred feet of ground before he stopped, gave a choking gasp and then sank out for help. His wife and two sons came to the rescue, and got him indoors as best they were able. And that ended his going alone for six months or more.

By trade Mr. Wilson is a carpenter, one of the most useful, peaceful and respectable of all the forms of labor. He has lived and worked for a long time at Given Terrace, Paddington, Brisbane, Queensland, and lives there still. About four years ago—or it will be by the time this gets into print—Mr. Wilson began to feel himself much less of a man than he used to be; he was breaking down.

The first thing he noticed was that when he set out to walk a farish distance which he would have done once with a kit of tools on his back without minding it—say, when he set out to tramp this, he found his legs were weak, and he often had to stop for breath, and he kept on getting worse. Such a state of things was almost as bad for a carpenter as it would have been for a postman. Both these vocations demand good legs and good wind.

On being consulted, the doctor said: "Mr. Wilson, your heart is so weak it can scarcely keep the blood in your body, and your whole system is out of order. There is no chance of your getting sound again, and the sooner you lay aside your hammers and saws the longer you are likely to live."

"These were plain words, to be sure, but not words which a patient would like paying out money to listen to. All the same, friend Wilson did as the doctor said, because he had no choice. He couldn't work, and so, naturally he didn't. His chisels grew dull, but not so dull as their owner. He left off making chips and shavings, and went in for drugs and regrets—a bad landscape for him.

After about half a year of this sort of thing, Mr. Wilson made up his mind to find out for himself if he was in fact so poor a stick of human timber as the medical man had declared him to be. He decided to experiment with the garden already described. For six months more he was like a ship in a dry dock, of no use to himself or anybody else. The doctor had measured up the carpenter's complaint to an eighth of an inch, but as for curing it, why, that he made no pretence of doing.

"About this time," says Mr. Wilson in a letter dated September 22, 1899, "Mr. Frank Percival Peacock, of Manning street, South Brisbane, urged me to try Mother Selgo's Syrup; he said he was sure it would help me. I didn't think so, but I tried it. To my surprise and delight, it enabled me to get about in three weeks, and in six weeks I went back to work; and have had splendid health ever since.

"As I am 61 years old, it wasn't the rebound of youthful elasticity that saved me; it was Mother Selgo's Syrup, and nothing else. I am known to nearly all the people of this neighborhood, who can vouch for the truth of this statement."—H. Wilson.

Mr. Wilson's ailment was of the digestion—the heart and lung troubles being functional symptoms of that. When the stomach was made right he picked up his saw.

Telegraph Notes.

California labor unions are defied by the mill owners.

Yakuas are suing for peace and want to retain their property and go back on the reservation.

One hundred and eighty-seven miles of St. Michael-Cape Nome cable is aboard the Orizaba.

Rear Admiral Miller gave a reception and dance to the officers of the 2nd Cavalry at the Hotel.

Miss Nancy Letter, who has been visiting her sister, Lady Curzon, wife of the Viceroy of India, has returned.

The National Afro-American Press Association opened on August 17, with over fifty delegates in attendance.

Senator Clark of Montana paid \$17,000 for the controlling interest in the Terminal Railway Company at Los Angeles.

Col. George Stone, chairman of the Republican State Central Committee of California, reports a good outlook in the West.

A new experiment in street signs will be tried in San Francisco. The Merchants' Association will place names on the sidewalks.

British colored subjects were injured in the recent race rioting in New York. The sixteen men claimed to hail from the West Indies.

THE GROWTH OF TRADE WITH NEW TERRITORY

WASHINGTON, Aug. 24.—Much desired information regarding the commerce of the United States with the Hawaiian Islands will no longer be forthcoming. The recent act of Congress, which extended to these islands practically all the laws of the United States, is construed as rendering commerce between the United States and the islands "coastwise" in its character.

The laws with reference to the gathering of statistics of our commerce require importers and exporters to file with Collectors of Customs at the ports at which their goods enter, or from which they leave the country, a specific statement of the quantity and value of each article imported or exported. The law does not require, however, this detailed information with reference to goods passing from one port to another of the United States. Taking advantage of this condition they leave the country, a specific statement of the quantity and value of each article imported or exported. The law does not require, however, this detailed information with reference to goods passing from one port to another of the United States.

The effect of this will be to deprive the Bureau of Statistics and the people of all information regarding commerce with the Hawaiian Islands. No feature of our import and export trade has attracted so much attention during the past years as that with Hawaii. It was the chief spot where the effect of annexation upon commerce with territory annexed could be studied, since, in other territories brought into close relations with the United States, the conditions were not

in our favor by reason of the war which has existed previous to or immediately following the new relationship.

While the growth of our commerce with Porto Rico, Cuba and the Philippine Islands has been very great, it has been difficult to determine what proportion of the growth was due to war conditions or what proportion to the new relations thus established. In the case of Hawaii, however, no war conditions existed, either previous or subsequent to annexation, and the growth of commerce with the United States may be attributed chiefly, if not wholly, to the close relationship brought about by annexation and the general business revival which followed that event. The growth of commerce with Hawaii in the past few years, especially in 1899 and 1900, has been phenomenal. The treaty of annexation was signed June 16, 1897, so that all commerce of the fiscal year 1898 felt the effect of that step in the process of annexation. In that year the shipments to Hawaii were \$5,967,155, an increase of 27 per cent over 1897, when they amounted to \$4,690,555. The treaty was ratified July 7th and sovereignty over the islands formally transferred to the United States August 12, 1898, thus bringing practically all the fiscal year 1899 within the period following complete annexation. Shipments in the fiscal year 1899 amounted to \$1,935,470, an increase of over 50 per cent, and in 1900 to \$1,579,148. The import side of the year 1898 showed an increase of 40 per cent and a half millions over 1897, and 1900 showed another increase of six and a half millions over 1898 and 1899. The Bureau of Statistics announces that this will be its last statement regarding Hawaiian commerce, unless the San Francisco merchants reconsider their action.

MORTUARY REPORT.

The following is the mortuary report for Honolulu for the month of August, 1900, as furnished by C. Charlock, agent of the Board of Health:

DEATHS BY AGES.	
Under 1	2
1 to 5	7
5 to 19	3
19 to 29	15
29 to 39	15
39 to 49	15
49 to 59	6
59 to 69	3
69 to 79	3
Over 79	5
Total	85

BY NATIONALITY.	
Hawaiian	34
Chinese	9
Portuguese	14
Japanese	21
Great Britain	1
United States of America	5
Other Nationalities	4

BY SEX.	
Male	62
Female	23

COMPARATIVE MONTHLY MORTALITY.	
August, 1896	61
August, 1897	33
August, 1898	51
August, 1899	58
August, 1899	58
August, 1900	85

BY WARDS.	
Ward 1	23
Ward 2	12
Ward 3	20
Ward 4	2
Ward 5	15
Non-residents	8

DEATH RATE PER 1,000.	
Annual death rate per 1,000 for month	23.73
Hawaiians	31.87
Chinese	10.99
Japanese	33.59
Portuguese	39.51
All others	15.99

CAUSE OF DEATH.

Apoplexy	1
Aneurysm	1
Ascites	1
Beriberi	2
Bright's Disease	1
Cerebral Hemorrhage	2
Cancer of Uterus	1
Diseases of the Heart	5
Dysentery	1
Diarrhoea	4
Diabetes	2
Enteritis	2
Fever—Malarial	2
Fever—Typhoid	6
Gastritis	2
General Debility	1
Gunshot wounds	1
Kidney disease	1
Morbus Cordis	1
Menstritis	2
Malnutrition	2
Marasmus	1
Nephritis	1
Obstruction of bowels	1
Cholera	2
Pneumonia	1
Pneumonia	4
Peritonitis	3
Puerperal Septicemia	1
Suicide by hanging	1
Tuberculosis	17

C. CHARLOCK.

Registrar Births, Marriages and Deaths.

Hives are a terrible torment to the little folks and to some older ones. Doane's Ointment never fails. Instant relief and permanent cure. At any chemist's, 50 cents.

The Bank of Hawaii LIMITED.

Incorporated Under the Laws of the Republic of Hawaii.

CAPITAL \$400,000.00

OFFICERS AND DIRECTORS:

Chas. M. Cooke, President
P. C. Jones, Vice-President
C. H. Cooke, Cashier
P. C. Atherton, Assistant Cashier

Directors—Henry Waterhouse, Tom May, J. W. Macfarlane, E. D. Tenney, J. A. McCandless.

Solicits the Accounts of Firms, Corporations, Trusts, Individuals and will promptly and carefully attend to all business connected with banking entrusted to it. Sell and Purchase Foreign Exchange, Issue Letters of Credit.

SAVINGS DEPARTMENT.

Ordinary and Term Deposits received and interest allowed in accordance with rules and conditions printed in pass books, copies of which may be had on application.

Buildings, Fort Street.

Down Again

In prices is the market for flour and feed, and we follow it closely. Send us your orders and they will be filled at the lowest market price. The matter of 5 or 10 cents upon a hundred pounds of feed should not concern you as much as the quality, as poor feed is dear at any price.

We Carry Only the Best.

When you want the Best Hay, Feed or Grain, at the Right Prices, order from

CALIFORNIA FEED CO.

TELEPHONE 121.

White Clover Soap.

HAVE YOU TRIED IT?

If you have, we know you will use it again. If you have not,

TRY IT

And you will surely use it again.

IT IS

A high grade Toilet Soap to sell at a low price, and absolutely harmless to the skin.

Price Per Cake

10cts.

Three Cakes For

25cts.

HOLLISTER DRUG CO.

FORT STREET.

THE WHITE HOUSE

Has opened its doors at

420 FORT ST.

And carries a full line of Dry Goods, Furnishing Goods and Notions for men, women and children.

One commendable feature of The White House is that it buys and sells for cash, enabling its customers to purchase at a low figure. Goods do not have to be marked up to cover losses from outstanding accounts.

The White House does shopping for persons who cannot come to Honolulu themselves. It is only too glad to send samples to all places and at all times.

Don't fail to pay The White House a visit in person or by letter, then you can see for yourself that The White House is "For the People."

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POWELL'S BALSAM OF ANISEED

WILL CURE YOUR COUGH.

ALL THE WORLD OVER, THE BEST CURE FOR COUGHS, COLDS, BRONCHITIS, AND ALL AFFECTIONS OF THE THROAT AND LUNGS.

UNSOLICITED TESTIMONIALS.

"I have used Powell's Balsam of Aniseed for many years, and it has cured me of many coughs and colds. I have also used it for my children, and it has cured them of many coughs and colds. I have also used it for my wife, and it has cured her of many coughs and colds. I have also used it for my mother, and it has cured her of many coughs and colds. I have also used it for my father, and it has cured him of many coughs and colds. I have also used it for my brother, and it has cured him of many coughs and colds. I have also used it for my sister, and it has cured her of many coughs and colds. I have also used it for my friends, and it has cured them of many coughs and colds. I have also used it for my enemies, and it has cured them of many coughs and colds. I have also used it for my neighbors, and it has cured them of many coughs and colds. I have also used it for my countrymen, and it has cured them of many coughs and colds. I have also used it for my fellow-citizens, and it has cured them of many coughs and colds